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LAW AND PARLIAMENTARY AFFAIRS SECRETARIAT

NOTIFICATION

No. LAW 45 LGN 74, Bangalore, dated 17th February 1975

Ordered that the **Karnataka Agricultural Credit Operations and Miscellaneous Provisions Act, 1974** which received the assent of the President on the Thirteenth day of February 1975, be published as Karnataka Act No. 2 of 1975 in the *Karnataka Gazette* for general information.

KARNATAKA ACT No. 2 OF 1975

(First published in the Karnataka Gazette Extraordinary on the Eighteenth day of February 1975).

THE KARNATAKA AGRICULTURAL CREDIT OPERATIONS AND MISCELLANEOUS PROVISIONS ACT, 1974.

(Received the assent of the President on the Thirteenth day of February 1975)

An Act to make provisions to facilitate flow of credit for purposes of agricultural production and development through credit agencies.

Whereas it is expedient to make provisions to facilitate flow of credit for purposes of agricultural production and development through credit agencies and for matters connected therewith or incidental thereto;

Be it enacted by the Karnataka State Legislature in the Twenty-fifth Year of the Republic of India as follows :—

CHAPTER I

Preliminary

1. Short title, extent and commencement.—(1) This Act may be called the Karnataka Agricultural Credit Operations and Miscellaneous Provisions Act, 1974.

(2) It extends to the whole of the State of Karnataka.

(3) It shall come into force in such areas on such date as the State Government may, by notification, appoint, and different dates may be appointed for different provisions of the Act and for different areas.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) "agriculture" and "agricultural purposes" include making land fit for cultivation, cultivation of land,

improvement of land, development of sources of irrigation, raising and harvesting of crops, horticulture, forestry, planting and farming, cattle breeding, animal husbandry, dairy farming, poultry farming, pisciculture, apiculture, sericulture, piggery and such other activities as are generally carried on by agriculturists, dairy farmers, cattle breeders, poultry farmers and other categories of persons engaged in similar activities including marketing of agricultural products, their storage and transport and the acquisition of implements and machinery, in connection with any such activity;

(b) "agriculturist" means a person who is engaged in agriculture;

(c) "Agro-Industries Corporation" means the Karnataka State Agro-Industries Corporation, a company registered under the Companies Act, 1956;

(d) "co-operative society" means a co-operative society registered or deemed to be registered under the Karnataka Co-operative Societies Act, 1959, the object of which is to provide financial assistance as defined in clause (f) of this section to its members and includes a Co-operative Land Development Bank;

(e) "Credit Agency" means—

(i) a banking company as defined in the Banking Regulation Act, 1949;

(ii) the State Bank of India constituted under the State Bank of India Act, 1955;

(iii) Subsidiary Bank as defined in the State Bank of India (Subsidiary Banks) Act, 1959;

(iv) a corresponding new bank constituted under the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970;

(v) the Agricultural Refinance Corporation constituted under the Agricultural Refinance Corporation Act, 1963;

(vi) Agro-Industries Corporation as defined in clause (c);

(vii) the Agricultural Finance Corporation Limited, a company incorporated under the Companies Act, 1956; and

(viii) any other financial institution notified by the State Government as a credit agency for the purpose of this Act;

(f) "financial assistance" for the purpose of this Act means, assistance granted by way of loans and advances guaranteed or otherwise for agricultural purposes.

CHAPTER 2

Alienation of land or interest therein by Agriculturists.

3. Removal of restrictions on alienation.—Notwithstanding anything contained in any law for the time being in force or any custom or usage having the force of law, it shall be lawful for an agriculturist to alienate the land or his interest therein whether or not a charge or mortgage is subsisting on such land or such interest, by creation of charge or mortgage of such land or interest therein in favour of a credit agency as security for the financial assistance given to him by such credit agency.

4. Vesting agriculturists not having alienable rights with rights of alienation.—Notwithstanding anything contained in the Karnataka Bhoodan Yagna Act, 1963 (Karnataka Act 34 of 1963) the State Government may, by notification, vest Bhoodan tenants with rights of alienation, including the right to create a charge or mortgage in such land or interest in favour of a credit agency for the purpose of obtaining financial assistance from the credit agency subject to such restrictions as may be specified in such notification.

5. Charge on crops and other movable property.— It shall be lawful for an agriculturist to create a mortgage of or a charge on,—

(a) movable property, owned by him; or

(b) crops standing or otherwise, raised by him on his own land or land held by him as a tenant including other produce raised by him on such land to the extent of his interest in such crops or produce,

in favour of a credit agency as security for the financial assistance given to him.

(2) Notwithstanding anything contained in the Karnataka Co-operative Societies Act, 1959 or any other law for the time being in force, no charge in respect of financial assistance given by a co-operative society to an agriculturist shall have priority over charge on the crop raised by him, standing or otherwise, or any other movable property in respect of any financial assistance given to him by a credit agency;

Provided that the financial assistance given by the credit agency is prior in point of time to that of any loan advanced to him by the co-operative society.

(3) A credit agency may distrain and sell through an official designated in this behalf by the State Government the crops or other produce or other movables charged to that credit agency to the extent of the agriculturist's interest therein and appropriate the proceeds of such sale towards all moneys due to the credit agency from that agriculturist.

6. Creation of charge on land or interest therein in favour of a credit agency by a declaration.—Notwithstanding anything contained in any law for the time being in force,

(i) any agriculturist given financial assistance by a credit agency may by a declaration in the prescribed form charge the land or any other immovable property owned

by him or where he is a tenant of any land, his interest in such land, as security for the amount of such financial assistance and interest payable thereon. Such declaration shall be filed along with the application seeking financial assistance and shall state that the charge created thereunder shall be for the amount of financial assistance then sought for and also for all future financial assistance which the credit agency may give him,

(ii) a declaration made under clause (i) may, with the consent of the credit agency concerned, be varied by the agriculturist at any time.

7. Priority of charges and mortgages over certain claims.—(1) Notwithstanding anything contained in any law for the time being in force, but subject always to the paramount charge in respect of arrears of land revenue, no charge or mortgage created of any land or of interest therein after the commencement of this Act in favour of the State Government or a co-operative society shall have priority over charge or mortgage on such land or interest created by an agriculturist in favour of a credit agency as security for financial assistance given to the agriculturist by a credit agency after the commencement of this Act and prior to the charge or mortgage in favour of the State Government or the co-operative society:

(2) Where different charges or mortgages over the same land or any interest therein have been created or executed by an agriculturist in favour of,—

(i) the State Government; or

(ii) a co-operative society; or

(iii) one or more credit agency,

such charges or mortgage out of them as is created or executed as security for the financial assistance given as term loan for development purposes shall have priority over the other charges or mortgages:

Provided that prior notice thereof had been given to, and concurrence had been obtained of the State Government or the co-operative society or the credit agency, as the case may be.

(3) Where more than one charge or mortgage had been created or executed as security for the financial assistance given as term loan for development purposes, the charges or mortgages shall have priority in accordance with the dates of their creation or execution.

Explanation.—For the purposes of this section, "term loan for development purposes", means financial assistance which would generally lead to improvement of agriculture and or building up of assets in agriculture but shall not include financial assistance for meeting working capital expenses, seasonal agricultural operations and marketing of crops.

(4) Nothing in this section shall apply to borrowings from one or more co-operative societies only.

8. Mortgage executed by managers of Joint Hindu families.—(1) Notwithstanding anything contained in any law, where a mortgage in respect of financial assistance given by a credit agency is executed by the agriculturist manager of a joint Hindu family, such mortgage shall, subject to the provision of sub-section (2) be binding on every member of such family.

(2) Whenever such mortgage is challenged on the ground that it was executed by the manager for a purpose not binding on the other members (whether such members have attained majority or not), the burden of proving the same shall be on the party alleging it.

9. Registration of charges and mortgage in favour of a credit agency.—(1) Notwithstanding anything contained in the Registration Act, 1908, a charge in respect of which a declaration has been made under clause (1) of section 6 or

in respect of which variation has been made under clause (n) of that section or a mortgage executed by an agriculturist in favour of a credit agency in respect of financial assistance given by that credit agency, shall be deemed to have been duly registered in accordance with the provisions of that Act with effect from the date of such charge, variation or mortgage, as the case may be, provided the credit agency sends to the registering officer within the local limits of whose jurisdiction the whole or any part of the property charged or mortgaged is situate within such time and in such manner as may be prescribed by the State Government for this purpose, by registered post acknowledgment due, a copy of the document creating such charge, variation or mortgage duly certified to be a true copy by an employee of a credit agency authorised to sign on its behalf.

(2) The Registering authority receiving such document shall enter the same in Book-I.

10. Noting of charge or mortgage in the Record of Rights. Whenever a charge or a mortgage on land or interest therein is created or executed by an agriculturist in favour of a credit agency, the credit agency shall give intimation to the Tahsildar of the taluk in which the land is situated or to any officer authorised by him, of the particulars of the charge or mortgage in its favour. The Tahsildar or the officer authorised by him shall make a note of the particulars of charge or mortgage in the Record of Rights relating to the land over which the charge or mortgage has been created.

CHAPTER 4

Recovery of dues by Credit Agencies

11. Removal of bar to attachment and sale by process of Court.—Nothing in any law shall prevent in any manner a credit agency from causing any land or any interest therein mortgaged or charged to it by an agriculturist to secure any

financial assistance, to be attached and sold through a civil court and applying the proceeds of such sale towards all moneys due to it from that agriculturist including the costs and expenses as may be awarded by the Court.

12. Recovery of dues of a credit agency on a certificate by the prescribed officer.—(1) On an application made by a credit agency for the recovery of arrears of any sum due to it by an agriculturist towards the financial assistance given to him and on its furnishing a statement of accounts in respect of the arrears, the prescribed officer may after making such enquiries as he deems fit and after giving the agriculturist a reasonable opportunity of being heard, grant a certificate for the recovery of the amount stated therein to be due.

(2) A certificate by the prescribed officer under sub-section (1) shall be final and conclusive as to the arrears due. The arrears stated to be due therein shall be recoverable as if it were an arrear of land revenue.

13. Right of a credit agency to purchase mortgaged property.—(1) Notwithstanding anything contained in any law for the time being in force, it shall be lawful for a credit agency to purchase any mortgaged property at a sale held in enforcement of the mortgage executed in its favour in respect of the financial assistance given when no person has offered to purchase it for a price which is sufficient to pay to the credit agency the moneys due to it and the provisions of Chapter IV of the Karnataka Land Reforms Act, 1961 shall not be applicable in respect of the property so purchased.

(2) The property so purchased shall be disposed of by such credit agency by sale within a period of five years from the date of purchase.

(3) The sale by a credit agency of such property shall be subject to the provisions of the Karnataka Land Reforms Act, 1961 and the Karnataka Prevention of Fragmentation and Consolidation of Holdings Act, 1966.

(4) (a) The right of sale under sub-section (2) shall be subject to the condition that the credit agency shall give notice to the agriculturist referred to in sub-section (1) of section 12 that if he actually pays within the time specified in the notice which shall not be less than sixty days—

(i) the amount specified in the proclamation of sale for the recovery of which the sale was ordered less any amount which may since the date of such proclamation of sale have been received by the credit agency towards such amount; and

(ii) such other sums including interest as may be prescribed.

(b) The credit agency shall specify in the notice the amount to be paid.

(c) If the agriculturist actually pays the amount in terms of the notice the credit agency shall reconvey the property to him at his cost.

14. Power to lease.—Notwithstanding anything contained in any law for the time being in force, a credit agency shall, subject to the provisions of sub-section (1) of section 13, have the right to lease the land acquired by it under the said sub-section:

Provided that the term of such lease shall not be more than one year at a time and that the lessee shall not acquire any interest in the land.

15. Exemption from registration fee.—Notwithstanding anything contained in the Registration Act, 1908, no fee under the said Act shall be payable in respect of an instrument by which immovable property is mortgaged or charged under this Act.

16. Power to make rules.—(1) The State Government, may, after previous publication, by notification, make rules to carry out the purpose of the Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely :—

(i) the form of declaration under section 6 ;

(ii) the time within which and the manner in which the credit agency should send a copy of the instrument referred to in section 9;

(iii) prescribing the officer for purposes of section 12.

(3) Every rule made under this section shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree that the rule should not be made, the rule shall from the date on which the modification or annulment is notified by the State Government in the official Gazette have effect only in such modified form or be of no effect, as the case may be ; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

CHAPTER-5

Miscellaneous

17. Amendment of Karnataka Act 11 of 1959.— In the Karnataka Co-operative Societies Act, 1959 (Karnataka Act 11 of 1959),—

(1) in section 2, after clause (e), the following clause shall be inserted, namely :—

"(e-1) 'credit agency' means a credit agency as defined in the Karnataka Agricultural Credit Operations and Miscellaneous Provisions Act, 1974 ;" ;

(2) in sub-section (1) of section 18 after the words "any individual", the words "or any credit agency" shall be inserted;

(3) section 59 shall be renumbered as sub-section (1) of that section and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—

"(2) Notwithstanding anything contained in sub-section (1), such co-operative societies or class of co-operative societies as the State Government may, by notification, specify shall have power to borrow from a credit agency subject to such conditions as may be prescribed."

(4) after section 65, the following sections shall be inserted, namely :—

"**65A. Report of audit, inspection and final report to be made available to a credit agency.**—The Registrar shall draw the attention of a credit agency financing a co-aperative society to the defects noticed in any audit, inquiry or inspection of such co-operative society and shall also supply a copy of each of such audit or inquiry report, if demanded in writing by such credit agency.

65B. Inspection of books of co-operative society by a credit agency.—(1) A credit agency shall have the right to inspect the books of any co-operative society which has either applied to the credit agency for financial assisance or is indebted to it.

(2) The inspection may be made either by an officer of the credit agency or a member of its paid staff authorised by the credit agency as competent to undertake such inspection.

(3) The officer or member so inspecting shall, at all reasonable times, have free access to the books, account, documents, securities, cash and other properties belonging to or in the custody of the co-operative society and may also call for such information, statements and returns as

may be necessary to ascertain the financial conditions of the co-operative society, and to ensure security of the sums lent to it by the credit agency.";

(4) in section 70, in clause (d) of sub-section (1), after the words "co-operative society", the words "or a credit agency" shall be inserted;

(5) after section 71A, the following section shall be inserted, namely:—

"**71B. Powers of credit agency to proceed against members of a co-operative society for the recovery of money due to it from such society.**—(1) If a co-operative society is unable to pay its debts to a credit agency by reason of its members committing default in the payment of the moneys due by them, the credit agency may direct the committee of such co-operative society to take proceedings against such member under section 70 or initiate proceedings under section 101, as the case may be, and if the committee fails to do so within a period of ninety days from the date of receipt of such direction the credit agency may itself proceed against such defaulting members under section 70 or section 101, as the case may be, in which case, the provisions of the Act, the rules or the bye-laws shall apply as if all references to the co-operative society or its committee in the said provisions, were reference to the credit agency.

(2) Where a credit agency has obtained a decree or award against a co-operative society in respect of money due to it from the co-operative society the credit agency may proceed to recover such moneys firstly from the assets of the co-operative society and secondly from the members of the co-operative society to the extent of their debts due to the society."

18. Money Lenders Act not to apply.—The provisions of Karnataka Money Lenders Act, 1961 (Karnataka Act 12 of 1962) shall not apply to financial assistance granted to an agriculturist by a credit agency.

19. Modified application of section 8 of the Act XXXII of 1956.—Section 8 of the Hindu Minority and Guardianship Act, 1956, shall apply to mortgages in favour of a credit agency subject to the modification that reference to the court therein shall be construed as reference to the Deputy Commissioner or his nominee and the appeal against the order of the Deputy Commissioner or his nominee shall lie to the Divisional Commissioner.

By Order and in the name of the Governor of Karnataka,

M. L. RAMASWAMI,
Draftsman and **Ex-officio**
Joint Secretary to Government,
Department of Law and Parl. Affairs.

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